



Oklahoma Funeral Board
3700 N. Classen Blvd, Suite 175
Oklahoma City, Oklahoma 73118
405.522.1790

MEMORANDUM & BOARD PACKET

December 7, 2021

TO: MEMBERS

Tom Coble
J. Cooper
Joe Highberger
Brent Matherly
Jim Roberts
Mike Sanders
Chad Vice

BOARD STAFF

Ron DeWitt
Shayne Melton
Ashton Poarch, AAG
Rochelle Robinson
Thomas Schneider, AAG

FR: Tyler Stiles

RE: December 9, 2021 Regular Board Meeting

Please find the attached December 9, 2021 Oklahoma Funeral Board agenda and the drafted November 10, 2021 regular meeting minutes. I have also attached the drafted language for the statute change and added another rule change that is required due to a law change. If you have any questions or if you cannot attend next week's meeting, please contact me.

A handwritten signature in black ink that reads "Tyler Stiles". The signature is written in a cursive, flowing style.

Tyler Stiles, MBA
Executive Director
Oklahoma Funeral Board

OKLAHOMA FUNERAL BOARD
3700 North Classen Blvd, Suite 175
Oklahoma City, Oklahoma 73118

NOTICE OF REGULAR MEETING

MEETING PLACE: Videoconference at

<https://oklahomafuneralboard.my.webex.com/meet/Funeralboard>

We ask that only the Respondents in a complaint use the video camera function. If calling in by telephone please call 1-408-418-9388; Access Code 1260612143. If attending in person at the physical location: Office of Chief Medical Examiner OKC, 921 N.E. 23rd Street Conference Room 1st Floor Oklahoma City, OK 73105.

DATE & TIME: December 9, 2021 10:00AM

A copy of this notice of meeting and agenda has been posted in a prominent location at the office of the Oklahoma Funeral Board, 3700 North Classen Blvd Suite 175, Oklahoma City, Oklahoma, on December 7, 2021 at 9:30AM. A copy of this agenda is available on the Funeral Board website at www.ok.gov/funeral

If attending via videoconference or via telephone Continuing Education credit will not be provided for this meeting. If you plan to attend a Board meeting for Continuing Education credit and would like a rough estimate of the length of time Board staff estimates the meeting might last, please email your request to info@funeral.ok.gov.

*** This symbol denotes the application and/or applicant is not in compliance with 235:1-1-2 (c) (14 day Rule)

ORDER OF BUSINESS: The Board may discuss, vote to approve, vote to disapprove, vote to table, change the sequence of any agenda item, or decide not to discuss any item on the agenda.

1. Roll Call

2. Reading of the Oklahoma Funeral Board mission statement

The mission of the Oklahoma Funeral Board is to act in the public interest and for the protection of the public within the powers vested in the Board by the State of Oklahoma for the regulation and education of the funeral service profession.

3. Approval of the November 10, 2021 Regular Board meeting minutes
4. Oklahoma Funeral Director Association Update from a Representative of OKFDA
5. Review complaints with possible vote for probable cause or other action

21-34 Not Providing GPL and Statement of Goods

22-15 Ethics Issues

6. Matters for consideration: Consent Order or Scheduling Order

At the conclusion of the parties' presentation and any questions or public discussion by the Board, the Board may in each complaint case:

- i. consider and vote on motion(s) to conduct executive session(s) pursuant to 25 O.S.2011, Section 307(B)(8) to engage in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act;
- ii. if an executive session is held, designate a person to keep written minutes of the executive session;
- iii. consider and vote on motion(s) to exit executive session and return to open meeting; and
- iv. consider and vote on motion(s) regarding possible action to be taken regarding matter discussed in executive session.

6A. Complaint 22-01 Carter-Smart Funeral Home-Duncan, Duncan; Ronald L. Smart, Duncan; Ronald Smart, FDIC, Ronald Smart. Member Highberger needs to be recused.

6B. Complaint 22-05 Adamscrest Funeral Service, Tulsa; Adams-Crest Funeral Home and Cremation Center, LLC, Tulsa; Nick Reynolds,

FDIC, Tulsa. Member Matherly needs to be recused.

6C. Complaint 22-11 Lockstone Funeral Home of Thomas, Inc, Thomas; Lockstone Funeral Home of Thomas, Inc, Owner, Thomas; Martin Lockstone, FDIC, Weatherford. Member Matherly needs to be recused.

7. Vote to affirm or disaffirm the issuance of the following licenses, registrations, certificates, dissolution or other action

A. Apprenticeship (Original)

1. Jonathan Bland, Yukon, McNeils, Mustang
2. Loran Taff, OKC, OMS, OKC (EM Only)
3. Yobana Cordoba, Edmond, Advantage FH-South, OKC
4. Mackenzie Parks, OKC, OMS, OKC (EM Only)
5. Devin Stark, The Village, Vondel L. Smith, OKC
6. Maleha Tatum, Ada, Criswell FH, Ada
7. Katlynn Chism, MWC, Bill Eisenhour, OKC
8. Landis Thompson, Broken Arrow, Palmer Marler, Cushing

B. Apprenticeship (FD only) (Original)

1. Amber Bright, Moore, John Ireland, Moore
2. Jessica Ramirez, Purcell, Wadleys FS, Purcell
3. David Ragsdale, Jr, Muskogee, Biglow Funeral Directors, Muskogee
4. Jimmie Binford, Tulsa, Butler-Stumpff & Dyer, Tulsa

C. Apprenticeship (3rd Extension)

1. Randy Brice, Muskogee, Lescher-Millsap, Muskogee

D. Funeral Director and/or Embalmer (Reciprocal)

1. Aaron Brown, Texas
2. Sheila Brisendine, Texas
3. Danilo Gatton, California

E. Funeral Director and/or Embalmer (Original)

1. Leslie Sheppard, OKC
2. James Groesbeck, Sand Springs (FD Only)
3. Randy Brice, Muskogee (FD Only)

F. Establishments

1. Hartwell FH, Tishomingo, request change of FDIC from Tasha Kemp to Staci Hartwell-Helm
2. Evans & Miller FH, Poteau, request change of FDIC Jimmy Cook to Justin Tucker
3. Evans & Miller FH, Pocola, request change of FDIC Jimmy Cook to Justin Tucker
4. Mallory FH-Porum, Porum, request change of FDIC from Doug Martin to Brian Ford
5. Mallory FH of Quinton, Quinton, request change of FDIC from Doug Martin to Brian Ford
6. Mallory-Martin FH of Stigler, Stigler, request change of FDIC from Doug Martin to Blake Martin

G. Crematory

1. Mallory-Marin Funeral Home and Crematory, Stigler, request change of FDIC from Doug Martin to Blake Martin
8. **New Business.** Any matter not known about or which could not have been reasonably foreseen prior to the time of posting the agenda or any revised agenda. 25 O.S. Section 311.9.
9. **Executive Director's Report**
 - A. Agency Financial update
10. **Review, discussion by the Board members, and possible action regarding proposed changes to the Oklahoma Funeral Board Statutes or Rules:**
 - A. Quorum Amount Change
 - B. Licensing education requirements
 - C. FD Only additional hours requirement
 - D. Rule Change to add language regarding requests for rule changes
11. **Legal Update**
 - A. Possible vote to enter into executive session pursuant to 25 O.S. Section 307(B)(4) for confidential communication between the Funeral Board and its attorney concerning pending litigation in Garfield County District Court, Case Number CJ-2020-284, Amy Stittsworth Funeral Svc. & Cremation Directors, Inc., et al. v. State of Okla., ex rel. Oklahoma Funeral Board, CJ-2020-284, SD-119407, when with the advice of its attorney, the Funeral Board determines that disclosure would seriously impair the ability of the Funeral Board to process or conduct or defend its claim in the pending litigation.
 - B. Vote to exit executive session.
 - C. Possible vote on matters discussed in executive session.

- D. Possible vote to enter into executive session pursuant to 25 O.S. Section 307(B)(4) for confidential communication between the Funeral Board and its attorney concerning pending litigation in Pontotoc County District Court, Case Number CV-2021-103, Criswell Funeral Home, Inc., et al. v. State of Okla., ex rel. Oklahoma Funeral Board, when with the advice of its attorney, the Funeral Board determines that disclosure would seriously impair the ability of the Funeral Board to process or conduct or defend its claim in the pending litigation.
- E. Vote to exit executive session
- F. Possible vote on matters discussed in executive session.

12. Adjournment

Tyler Stiles, MBA
Executive Director

The next regular meeting of the Oklahoma Funeral Board will be held:
January 13, 2022. Office of Chief Medical Examiner –OKC 921 N.E. 23rd Street
Conference Room – 1st Floor Oklahoma City, OK 73105.



MINUTES OF A REGULAR MEETING

OKLAHOMA FUNERAL BOARD
3700 N. Classen, Suite 175
Oklahoma City, Oklahoma 73118

November 10, 2021

BOARD MEMBERS

Tom Coble
J. Cooper
Joe Highberger
Brent Matherly
Jim Roberts
Mike Sanders
Chad Vice

STAFF

Shayne Melton
Ashton Poarch, AAG
Rochelle Robinson
Tyler Stiles

MEETING PLACE: MEETING PLACE: Videoconference at <https://oklahomafuneralboard.my.webex.com/meet/Funeralboard>
We ask that only Board Members, Staff, and Respondents use the video camera function. If calling in by telephone please call 1-408-418-9388; Access Code 1260612143. If attending in person at the physical location: Office of Chief Medical Examiner OKC, 921 N.E. 23rd Street Conference Room 1st Floor Oklahoma City, OK 73105.

A copy of this notice of meeting and agenda has been posted in a prominent location at the office of the Oklahoma Funeral Board, 3700 North Classen Blvd Suite 175, Oklahoma City, Oklahoma, on November 5, 2021 at 11:30AM. A copy of this agenda is available on the Funeral Board website at www.ok.gov/funeral

Continuing Education credit was not provided for this meeting if attended via videoconference or telephone.

President Highberger called the meeting to order at 10:00AM. Board Members Highberger, Roberts, Sanders, and Vice were present. Members

Coble, Cooper, and Matherly were not present for roll call. A quorum was always present.

Reading of the Oklahoma Funeral Board mission statement:

The mission of the Oklahoma Funeral Board is to act in the public interest and for the protection of the public within the powers vested in the Board by the State of Oklahoma for the regulation and education of the funeral service profession.

Motion by Vice second by Sanders to approve the October 14, 2021 Regular Board meeting minutes. The motion passed unanimously.

Dustin Pierce with OKFDA informed the Board that OKFDA will be having CE opportunities December 5th or December 6th at Barnes Friederich Funeral Home in Midwest City. Contact them to RSVP.

Motion by Highberger second by Roberts to find probable cause on complaint 22-05 regarding overcharging. The motion passed unanimously.

Member Cooper entered the meeting.

Motion by Highberger second by Roberts to table complaint 22-09 regarding Cremation Issues/ Overcharging/Death Certificate Issues. The motion passed unanimously.

Motion by Vice second by Highberger to dismiss complaint 22-10 regarding Embalming Issues. The motion passed unanimously.

Motion by Highberger second by Roberts to find probable cause on complaint 22-11 regarding Body Intake Log Issues/No Licenses Displayed. The motion passed unanimously.

Motion by Vice second by Sanders to dismiss complaint 22-13 regarding Ethics Issues. The motion passed with Highberger, Roberts, Sanders, and Vice voting Aye and Cooper voting NO.

Motion by Vice second by Highberger to find probable cause on complaint 22-14 regarding Material Misrepresentation. The motion passed unanimously.

Regarding the matters for consideration: Consent Order or Scheduling Order: Complaint 21-49 Buchanan Funeral Service, Oklahoma City; Tak-N-Kar, LLC, Oklahoma City; Kenneth Buchanan II, FDIC, Oklahoma City. Respondent's attorney, Eric Kroier was present. The prosecution was represented by Ashton

Poarch, AAG. Thomas Schneider, AAG, was the Board's legal advisor. Members Highberger, Roberts, Sanders, and Vice heard the case. Member Cooper was recused from the case and he left the room.

After the presentation of the agreed upon Consent Order, motion by Roberts second by Highberger to accept the Consent Order. The consent order consisted of the following: The agreed violations were: failure to submit application of establishment license, false or misleading advertising, violation of the Funeral Service Licensing Act, and Rules of the Board. The terms consisted of the following: Administrative Penalty of \$1,000, Mr. Buchanan shall complete an additional 6 hours of CE, and Costs of \$500. Motion passed unanimously.

Regarding the matters for consideration: Consent Order or Scheduling Order: Complaint 21-54 Delozier Funeral Service, LLC, Chelsea; Delozier Funeral Service, LLC, Owner, Chelsea; Kenneth Delozier, FDIC, Chelsea. The respondents and their attorney, Kassie McCoy, appeared on Webex. The prosecution was represented by Ashton Poarch, AAG. Thomas Schneider, AAG, was the Board's legal advisor. Members Highberger, Roberts, Sanders, and Vice heard the case. Member Cooper was recused from the case and he left the room.

After the presentation of the agreed upon Consent Order, motion by Highberger second by Vice to approve the Consent Order. The consent order consisted of the following: The agreed violations were: failure to maintain an up-to-date body intake log, not having the FDIC reflected on the Body Intake Log, Failure to comply with requirements of Statutes and Rules of State Insurance Commission, violation of the Funeral Service Licensing Act, and Rules of the Board. The terms consisted of the following: Administrative Penalty of \$2,000 and Costs of \$500. The motion passed unanimously.

Member Cooper reentered the room.

Regarding the matters for consideration: Consent Order or Scheduling Order: Complaint 22-08 Dillon Funeral Service, LLC, Sand Springs; Dillon Funeral Service, LLC, Owner, Sand Springs; Preston McCurtain, FDIC, Sand Springs. The respondents appeared via Webex. The prosecution was represented by Ashton Poarch, AAG. Thomas Schneider, AAG, was the Board's legal advisor. Members Cooper, Highberger, Sanders, and Vice heard the case. Member Roberts was recused from the case and he left the room.

After the presentation of the agreed upon Consent Order, motion by Highberger second by Sanders to approve the Consent Order. The consent order consisted of the following: The agreed violations were: failure to

maintain an up-to-date body intake log, not having the FDIC reflected on the Body Intake Log, violation of the Funeral Service Licensing Act, and Rules of the Board. The terms consisted of the following: Administrative Penalty of \$250 and Costs of \$250. The motion passed unanimously.

Member Roberts reentered the room.

Motion by Roberts second by Highberger to approve the following: Apprenticeship (Original) Aiden Richey, Edmond, Hahn-Cook, OKC; Chad Kaminski, Ada, Criswell FH, Ada; Allexia Ernest, Bartlesville, Stumpff FH, Bartlesville; Joseph Campbell, Talihina, McCarn FS, Talihina; Sarah Blank, Edmond, Corbett FH, OKC; Monty Danderson, Collinsville, Adamscrest, Tulsa; Whitney Phillips, Durant, Brown's FS, Durant; Steven Hodge, Chandler, Parks Brothers, Prague; Kristen Wajda, Moore, Ingram, Smith & Turner, Yukon; Jayden Anderson, Edmond, Ingram, Smith & Turner, Yukon; Macie Herndon, Edmond, Ingram, Smith & Turner, Yukon. The motion passed unanimously.

Motion by Roberts second by Highberger to approve the following: Apprenticeship (1st extension) Cadyn Brice, Edmond, Memorial Park, OKC; Akeah Aschmeller, Edmond, Ford FS, Midwest City; Amber Shelley, OKC, John Ireland, Moore. The motion passed unanimously.

Motion by Roberts second by Highberger to approve the following: Apprenticeship (2nd extension) Daysha Ross, Stilwell, Reed-Culver, Tahlequah; Paul Bruns, Edmond, OK Cremation, OKC; Jennifer Pointer, Durant, Holmes-Coffey-Murray, Durant. The motion passed unanimously.

Motion by Roberts second by Highberger to approve the following: Apprenticeship (FD Only) Gatlin Scott, Bartlesville, Cremation Society, Tulsa. The motion passed unanimously.

Motion by Roberts second by Highberger to deny the following: Funeral Director and/or Embalmer (Reciprocal) Kendra Soley, Mississippi. The motion passed unanimously.

Motion by Roberts second by Highberger to approve the following: Establishments, Ray and Martha's FH, Anadarko, request to change FDIC from Kirsten Johnson to Jennice Jeter; Tishomingo Funeral Home, Tishomingo, request to change name to Hartwell Funeral Home, Tishomingo; Forever Memories FS, Roland, request to change FDIC from David Hampton to Curtis Brown; Forever Memories FS, Sallisaw, request to change FDIC from David Hampton to Curtis Brown. The motion passed unanimously.

No New Business was discussed

Executive Director's Report- Agency Financial update- Mr. Stiles reported gross receipts for October 2021 to be \$7,420.00 with \$537.00 going to the State of Oklahoma general fund. The expenses for the same timeframe totaled \$34,072.03 and net income after expenses totaled -\$27,189.03.

Executive Director's Report- 2022 License Renewals-Mr. Stiles reported that all renewals have been sent out and if you have not received your renewal by late November, contact the Board office. Board staff is still working with Thentia and hopefully will be able to finalize the online renewals shortly and is hoping that licensees will have the option to renew online or on paper.

Review, discussion by the Board members, and possible action regarding proposed changes to the Oklahoma Funeral Board Statutes: Motion by Highberger second by Roberts to table all three. The motion passed unanimously. Mr. Highberger requested to have a committee meet and determine the best course of action to move forward and entertain creating a survey to distribute to industry members for their input regarding the statute changes.

Quorum Amount Change-§59-396.22. Meetings of Board. Meetings of the Board shall be held at least twice a year at such places as may be designated by the Board. Four ~~Three~~ members of the Board shall constitute a quorum.

FD/EM Licensing education requirements -§59-396.3. Qualifications and examination of funeral directors and embalmers - Approved schools
B. 1. Except as provided in subsection C of this section, the minimum requirements for a license to practice funeral directing or embalming, or both, are as follows: The minimum requirements for a license to practice funeral directing or embalming, or both, are as follows:

An applicant for a license to practice funeral directing or embalming shall be at least twenty (20) years of age, a legal resident of this state, a citizen or permanent resident of the United States. In addition, an applicant ~~shall have at least sixty (60) semester hours of study earned, measured in quarter or clock hours, from a regionally accredited college or university;~~ shall be a graduate of a program of mortuary science accredited by the American Board of Funeral Service Education, and have served one (1) year as a registered apprentice. The applicant may serve as a registered apprentice prior to enrollment in an approved school of mortuary science, or subsequent to graduation from the school and pass the International Conference of Funeral Service Examining Board National Board Science Examination and/or Arts Examination with a 75 or higher on each exam.

FD Only additional hours requirement- -§59-396.3. C. 1. If a person chooses not to meet the qualifications in subsection B of this section for a funeral director, the person may alternatively qualify for a license to practice funeral directing, but not embalming, upon meeting the eligibility requirements of this subsection as follows: An applicant for a license to practice funeral directing shall be at least twenty (20) years of age, a legal resident of this state, a citizen or permanent resident of the United States. An applicant is required to complete a funeral director course of study approved by the Oklahoma Funeral Board and that is administered by program of mortuary science accredited by the American Board of Funeral Service Education (ABFSE). The funeral director course of Study shall include at least thirty (30) semester hours or Equivalent closely following the ABFSE curriculum standard, limited to only: Business Management, Cremation, Social Sciences/Humanities, Legal, Ethical, Regulatory, plus essential elements of embalming, restorative art, general concerns when dealing with human remains, a practicum experience and preparation for the required board exams. In addition to the funeral director course of study the applicant is required to complete ~~at least sixty (60) additional semester hours of study earned, measured in quarter or clock hours, from a regionally accredited college or university and must complete a~~ twelve-month minimum term as a registered apprentice with employment at a licensed establishment and must have assisted with twenty-five arrangement conferences and assisted with twenty five separate funeral or memorial services under the supervision of a licensed funeral director in this state. The applicant may serve as a registered apprentice prior to enrollment in an approved school of mortuary science, concurrently while in mortuary school, or subsequent to completion of the funeral director course of study.

Motion by Highberger second by Cooper to adjourn the meeting at 11:45AM. The motion passed unanimously.

Joe Highberger
Oklahoma Funeral Board President

**BEFORE THE OKLAHOMA FUNERAL BOARD
STATE OF OKLAHOMA**

**IN THE MATTER OF THE COMPLAINT
AGAINST:**

**CARTER-SMART FUNERAL HOME, INC.-
DUNCAN**

A Licensed Funeral Establishment,
Establishment License # 1083ES
1316 West Oak
Duncan, OK 73533

owned by:

RONALD L. SMART
2005 West Briar
Duncan, OK 73533

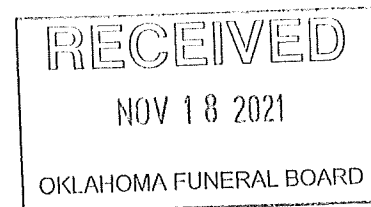
RONALD SMART

Licenses: 1688FD and 1976EM,
Address: 2005 West Briar
Duncan, OK 73533

A Licensed Funeral Director and Embalmer
and the Funeral Director in Charge at

**CARTER-SMART FUNERAL HOME, INC.-
DUNCAN,**

Complaint No. 22-01



Respondents.

COMPLAINT AND NOTICE OF HEARING

COMES NOW the State of Oklahoma, *ex rel.*, Oklahoma Funeral Board ("Board"), by and through Assistant Attorney General Ashton Poarch, and alleges that the Respondents, an Establishment and a Funeral Director in Charge, duly licensed by the Board, have violated provisions of the State Funeral Services Licensing Act, 59 O.S. § 395.1 *et seq.*, (the "Act"), and Rules of the Board, Oklahoma Administrative Code ("OAC") Section 235:10-1-1 *et seq.*, (the "Rules"), in the manner set forth below:

FACTUAL ALLEGATIONS

1. Respondent CARTER-SMART FUNERAL HOME.-DUNCAN (“Funeral Home” or “Establishment”), with establishment license number 1083ES, located at 1316 West Oak, Duncan, OK 73533, was at all relevant times owned by RONALD L. SMART, 2005 West Briar, Duncan, OK 73533, and as such, RONALD L. SMART, is liable and responsible for any penalty imposed in these proceedings.
2. Respondent RONALD SMART is a licensed Funeral Director and Embalmer with license numbers 1688FD and 1976EM and was the Funeral Director in Charge (“FDIC”) of Funeral Home at the time of the conduct giving rise to this complaint and, as the FDIC, was responsible for the Establishment’s legal and ethical operation pursuant to 59 O.S. § 396.2(12).
3. On or about July 9, 2021, Board staff conducted an inspection of the Funeral Home and determined that the Body Intake Log was deficient: not all bodies received at the Funeral Home were listed in the Log; there were no dates or times reflecting when the bodies were received; the dates and times of embalming were not listed in the Log; the embalmer did not sign the Log; the name, signature and embalmer license number were not in the Log; and the name, signature and apprentice license number were not in the Log. The Funeral Home was provided with a copy of the inspection report.
4. On July 15, 2021 Board staff filed a complaint with the Oklahoma Funeral Board, and notice was subsequently provided to the Respondents by letter dated July 15, 2021. On July 26, 2021, the Respondents filed their response to Complaint 22-01 with the Board, stating as follows:
 - a. “Enclosed are the copies requested for the month that was missing on the log book...”

5. This matter was presented to the Board on September 9, 2021 for a probable cause determination; the Board found probable cause to file a formal complaint against the Respondents.

6. The prosecution has sufficient evidence, which, if presented to the Board at an evidentiary hearing, would constitute clear and convincing evidence of the violations alleged.

ALLEGED CONCLUSIONS OF LAW

1. The Board has jurisdiction over Respondents pursuant to 59 O.S. § 396.2a(9) and (11).
2. The statutory list of relevant violations for which the Board may suspend or revoke a license is found at 59 O.S. § 396.12c, which provides:

After notice and hearing pursuant to Article II of the Administrative Procedures Act, the Oklahoma Funeral Board may refuse to issue or renew, or may revoke or suspend, any license or registration for any one or combination of the following:

8. Violation of any rules of the Board in administering the purposes of the Funeral Services Licensing Act;

3. Respondents violated 59 O.S. § 396.12c(8) when they violated OAC 235:10-3-2(5) by failing to have a complete and up-to-date Body Intake Log. Board rule OAC 235:10-3-2(5)(vii), with emphasis added, provides:

(vii) **Body Intake Log.** Each funeral establishment or commercial embalming service shall maintain in the preparation room of that establishment, or within a reasonable proximity of the preparation room, a log book. **The log book shall list the name of each human remains received at this location including the date and time the remains were received, the care or preparation of the remains (i.e., bathe, disinfect, refrigerate, or embalm), the date and time that the embalming occurred, the disposition of the remains, and the name, signature, and license number of the embalmer(s) and apprentice(s).** If the remains were prepared at another location, that location shall be listed in lieu of the name and signature of the embalmer(s) and apprentice(s). The log book must be available at all times for inspection by the Board.

4. Respondents violated 59 O.S. § 396.12c(8) when they violated OAC 235:10-3-2(10) by failing to list the FDIC on the Body Intake Log. Board rule OAC 235:10-3-2(10), with emphasis added, provides:

(10) Funeral Director in Charge. The Funeral Director in Charge shall be listed on the original establishment application and any subsequent establishment renewal applications, and **on the body intake log**.

5. As the Funeral Director in Charge at the times in question, RONALD SMART is responsible for the legal and ethical operation of CARTER-SMART FUNERAL HOME, INC.-DUNCAN, and is accountable to the Board under 59 O.S. § 396.2(12).

59 O.S. § 396.2(12). The “‘Funeral director in charge’ means an individual licensed as a funeral director and embalmer designated by a funeral service establishment, commercial embalming establishment, or crematory who is responsible for the legal and ethical operation of the establishment and is accountable to the Board.”

6. Respondents CARTER-SMART FUNERAL HOME, INC.-DUNCAN, and RONALD SMART are subject to disciplinary action by the Board pursuant to 59 O.S. §§ 396.2a(9), 396.12c(5), 396.12c(8), 396.12d, and 396.12e. The violation of any Board Rule or of a provision of the Funeral Services Licensing Act subjects the respective Respondents to discipline. 59 O.S. §§ 396.12(c)(5) (violation of statute) and (8) (violation of rule).

POTENTIAL PENALTIES THE BOARD MAY IMPOSE

1. The Board may impose a variety of penalties for violation of the Act or of Board Rules, including: (1) denial, revocation, suspension or nonrenewal of license; (2) imposition of administrative fines; (3) injunctive proceedings; and (4) other disciplinary action. 59 O.S. §§ 396.12c, 396.12d, and 396.12e.

2. Potential administrative penalties identified in 59 O.S. § 396.12e are:

A. Any person or entity who has been determined by the Oklahoma Funeral Board to have violated any provision of the Funeral Services Licensing Act or any rule or order issued pursuant thereto may be liable for an administrative penalty. The maximum administrative penalty shall not exceed Ten Thousand Dollars (\$10,000.00) for any related series of violations.

B. The Board shall be authorized, at its discretion, to take action as the nature of the violation requires. The Board shall have the authority to impose on the licensee, or certificate holder, as a condition of any adverse disciplinary action, the payment of costs expended by the Board in investigating and prosecuting the violation. The

costs may include but are not limited to staff time, salary and travel expenses, witness fees and attorney fees, and shall be considered part of the order of the Board.

C. The amount of the penalty shall be assessed by the Board pursuant to the provisions of subsection A of this section, after notice and hearing. In determining the amount of the penalty, the Board shall include, but not be limited to, consideration of the nature, circumstances and gravity of the violation and, with respect to the person or entity found to have committed the violation, the degree of culpability, the effect on ability of the person or entity to continue to do business and any show of good faith in attempting to achieve compliance with the provisions of the Funeral Services Licensing Act. The Board shall make a report of any action to any entity deemed appropriate for transmittal of the public record but shall in no cause be held liable for the content of the reported action or be made a party to any civil liability action taken as a result of the discipline imposed by the Board. All monies collected from the administrative penalties shall be deposited with the State Treasurer and by the State Treasurer placed in the "Fund of the Oklahoma Funeral Board ", created pursuant to Section 17 of this act.

D. Any license or certificate of apprenticeship holder may elect to surrender the license or certificate of apprenticeship of the person in lieu of said penalty but shall be forever barred from obtaining a reissuance of said license or certificate of apprenticeship.

NOTICE OF HEARING

In accordance with the jurisdiction granted this tribunal in 59 O.S. §§ 396.2a(7) and (9), 396.12c, 396.12d, and 396.12e a **joint proposed Consent Order** may be presented at the Board meeting on: **THURSDAY, DECEMBER 9, 2021, at 10:00 A.M..**

MEETING PLACE:

Videoconference at <https://oklahomafuneralboard.my.webex.com/meet/Funeralboard> We ask that only the Respondents in a complaint use the video camera function. If calling in by telephone please call 1-408-418-9388; Access Code 1260612143. If attending in person at the physical location: Office of Chief Medical Examiner OKC, 921 N.E. 23rd Street Conference Room 1st Floor Oklahoma City, OK 73105.

If no Consent Order is presented or approved by the Board on December 9, 2021, then an **EVIDENTARY HEARING** will be held at the same meeting on: **THURSDAY, DECEMBER 9, 2021, at 10:00 A.M.**

If it be the decision of the Board, after considering all evidence presented, that a Respondent is in violation of any of the above-referenced laws, the Board may take whatever

appropriate action that is provided for in its rules and statutes. In accordance with the above-referenced legal authority, the Respondents are advised that they have the right to appear personally, the right and obligation to submit a written response, and the right to appear through an attorney. In addition, the Respondents have the right to cross-examine witnesses and present evidence on their own behalf.

However, if a Respondent is not a person but is instead an entity, such as a corporation or an LLC, although the corporation or LLC may enter into a consent order without an attorney by law, and if an evidentiary hearing is required, the Respondent corporation or LLC by law may only cross-examine witnesses, present evidence and/or defend itself at the hearing if it is represented by an attorney licensed in the State of Oklahoma. See *Redcorn, Jr., v. Knox*, 2014 OK CIV APP 109, 345 P.3d 392 (an agreed order is in the nature of a contract by which a corporation is bound even if not represented by an attorney); *Massongill v McDevitt*, 1989 OK CIV APP 82, 828 P.2d 438 (although a person may appear at a hearing and represent himself/herself without an attorney, a person is not able to appear on behalf of a corporation, regardless of the person's interest in the corporation or authorization by the corporation, unless the person is a licensed attorney). If a Respondent corporation or LLC chooses not to retain an attorney, although it may not, under such circumstances, present evidence on its own behalf, the Board might consider favorable (or unfavorable) evidence submitted by co-Respondents or the State when considering the violations alleged against the Respondent corporation or LLC. See *Enochs v. Martin*, 1997 OK 132, 954 P.2d 124 (even though a corporation had no attorney and was therefore in default, the court could in the absence of any objection at the hearing consider in the corporation's favor evidence offered in the case in joint defense by one of the other named parties).

Therefore, the Respondents are directed to appear at said hearing on said date and time. If a Respondent does not appear in person or through an attorney, the hearing will be held in its absence. **Note: OAC Section 235:10-7-2(21) requires that each Respondent must submit to the Board a response to this Complaint within ten (10) days of receipt of the Complaint.**

Respectfully submitted:

A handwritten signature in black ink, reading "Ashton Poarch". The signature is fluid and cursive, with the first name "Ashton" and last name "Poarch" clearly distinguishable.

Ashton Poarch, OBA # 34308
Assistant Attorney General
Office of the Oklahoma Attorney General
313 NE 21st Street
Oklahoma City, OK 73105
ashton.poarch@oag.ok.gov
Attorney for Oklahoma Funeral Board

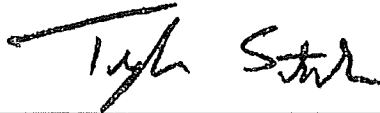
CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of November, 2021, a true and correct copy of the foregoing *Complaint and Notice of Hearing* was served either mailing by Certified Mail or by handing to a process server for service in person, as follows:

BY CERTIFIED MAIL:

RONALD SMART
2005 West Briar Road
Duncan, OK 73533

CARTER-SMART FUNERAL HOME, INC.-DUNCAN
1316 West Oak
Duncan, OK 73533

A handwritten signature in black ink, appearing to read "Tyler Stiles", is written over a horizontal line.

Tyler Stiles, MBA
Executive Director

**BEFORE THE OKLAHOMA FUNERAL BOARD
STATE OF OKLAHOMA**

**IN THE MATTER OF THE COMPLAINT
AGAINST:**

ADAMSCREST FUNERAL SERVICE

A Licensed Funeral Establishment,
Establishment License # 1808ES
1916 South Sheridan Road
Tulsa, OK 74112

owned by:

**ADAMS-CREST FUNERAL HOME AND
CREMATION CENTER, LLC**

1916 South Sheridan Road
Tulsa, OK 74112

NICK REYNOLDS,

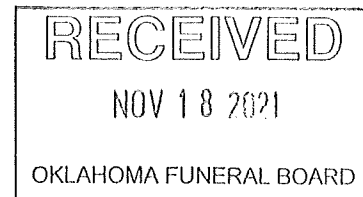
Licenses: 2605FD and 2740EM,
Address: 1916 South Sheridan Road
Tulsa, OK 74112

A Licensed Funeral Director and Embalmer
and the Funeral Director in Charge at

ADAMSCREST FUNERAL SERVICE,

Respondents.

Complaint No. 22-05



COMPLAINT AND NOTICE OF HEARING

COMES NOW the State of Oklahoma, *ex rel.*, Oklahoma Funeral Board ("Board"), by and through Assistant Attorney General Ashton Poarch, and alleges that the Respondents, an Establishment and a Funeral Director in Charge, duly licensed by the Board have violated provisions of the State Funeral Services Licensing Act, 59 O.S. § 395.1 *et seq.* (the "Act"), and Rules of the Board, Oklahoma Administrative Code ("OAC") Section 235:10-1-1 *et seq.* (the "Rules"), in the manner set forth below:

FACTUAL ALLEGATIONS

1. Respondent ADAMSCREST FUNERAL SERVICE, (“Funeral Home” or “Establishment”), with establishment license number 1808ES, located at 1916 South Sheridan Road, Tulsa, OK 74112, was at all relevant times owned by ADAMS-CREST FUNERAL HOME AND CREMATION CENTER, LLC, 1916 South Sheridan Road, Tulsa, OK 74112, and as such, ADAMS-CREST FUNERAL HOME AND CREMATION CENTER, LLC is liable and responsible for any penalty imposed in these proceedings.

2. Respondent NICK REYNOLDS is a licensed Funeral Director and Embalmer, license numbers 2605FD and 2740EM, and was the Funeral Director in Charge (“FDIC”) of Funeral Home at the time of the conduct giving rise to this complaint; the FDIC is responsible for the Establishment’s legal and ethical operation pursuant to 59 O.S. § 396.2(12).

3. On or about August 17, 2021, Board staff received a written complaint from a member of the public, alleging that Respondents engaged in fraudulent billing practices. Specifically, the complaint alleged that, after the family of the decedent declined to use the Oklahoma Victims Compensation Fund (the “Fund”) and paid out of pocket for all contracted goods and services (the “First Contract”), Respondents generated a second contract with additional goods and services listed and submitted the second contract to the Fund for payment in full (the “Second Contract”). Respondents received payment on the Second Contract from the Fund and sent a refund to the decedent’s family for the amount they already paid. Staff and executives of the Fund echoed the above allegations during a meeting on August 16, 2021 with the Executive Director of the Oklahoma Funeral Board. Staff of the Fund then filed a written complaint regarding the same conduct described herein with the Oklahoma Funeral Board on August 18, 2021.

- a. The First Contract stated that the goods and services provided were four thousand, one hundred and fifty-nine dollars (\$4,159.00). The Funeral Home applied a discount of one thousand, seven hundred and fifteen dollars (\$1,715.00), leaving an outstanding balance of two thousand, four hundred and forty-four dollars (\$2,444.00), which the family of the decedent paid in full via check on or about October 26, 2020.
 - b. The Second Contract, which the Funeral Home tendered to the Fund for payment, stated that the goods and services provided were seven thousand, five hundred dollars (\$7,500.00). The Second Contract also showed the family's payment of two thousand, four hundred and forty-four dollars (\$2,444.00), leaving an outstanding balance of five thousand and fifty-six dollars (\$5,056.00).
 - c. The FDIC submitted a claim for payment on the Second Contract to the Fund on or about March 2, 2021.
4. Notice of the Complaint was subsequently provided to the Respondents by letter dated August 19, 2021. On September 13, 2021, the Respondents filed their response to Complaint 22-05 with the Board, stating as follows:
 - a. Respondents feel that Oklahoma Victims Compensation Fund is for families and funeral homes alike. Further, Respondents state that the decedent's family received all goods and services listed on the Second Contract; thus, there was no deceptive billing. Respondents treat insurance claims, Tribal benefits claims, and Oklahoma Victims Compensation Funds claims similarly—they advise the families of the available funds and file the paperwork on their behalf. Finally, the Respondents stated that this series of complaints will not change the way they handle funeral arrangements for murdered decedents.

5. This matter was presented to the Board on November 10, 2021, for a probable cause determination, and the Board found probable cause to file a formal complaint against the Respondents.

6. The prosecution has sufficient evidence which, if presented to the Board at an evidentiary hearing, would constitute clear and convincing evidence of the violations alleged.

ALLEGED CONCLUSIONS OF LAW

1. The Board has jurisdiction over Respondents pursuant to 59 O.S. § 396.2a(9) and (11).
2. The statutory list of relevant violations for which the Board may suspend or revoke a license is found at 59 O.S. § 396.12c, which in relevant part provides:

After notice and hearing pursuant to Article II of the Administrative Procedures Act, the Oklahoma Funeral Board may refuse to issue or renew, or may revoke or suspend, any license or registration for any one or combination of the following:

5. Violation of any of the provisions of the Funeral Services Licensing Act or any violation of Sections 201 through 231 of Title 8 of the Oklahoma Statutes;

8. Violation of any rules of the Board in administering the purposes of the Funeral Services Licensing Act;

14. Failing to comply with the Funeral Rules of the Federal Trade Commission, 15 U.S.C., Section 57a(a).

3. Respondents violated 59 O.S. § 396.12c(14) when they violated 16 C.F.R. § 453.2(a), which was promulgated pursuant to 15 U.S.C. § 57a(a), by engaging in unfair or deceptive acts or practices. 16 C.F.R. § 453.2(a) with emphasis provides:

(a) Unfair or deceptive acts or practices. In selling or offering to sell funeral goods or funeral services to the public, **it is an unfair or deceptive act or practice for a funeral provider to fail to furnish accurate price information disclosing the cost to the purchaser for each of the specific funeral goods and funeral services used** in connection with the disposition of deceased human bodies, including at least the price of embalming, transportation of remains, use of facilities, caskets, outer burial containers, immediate burials, or direct cremations, to persons inquiring about the purchase of funerals. Any funeral provider who complies with

the preventive requirements in paragraph (b) of this section is not engaged in the unfair or deceptive acts or practices defined here.

Unfair or deceptive acts or practices are described in 16 C.F.R. § 453.2(b), which provides that the following information must be furnished to the consumer:

(5) Statement of funeral goods and services selected.

(i) Give an itemized written statement for retention to each person who arranges a funeral or other disposition of human remains, at the conclusion of the discussion of arrangements. This statement must include the following information:

(A) The funeral goods and funeral services selected by that person and the prices to be paid for each of them;

(B) Specifically itemized cash advance items. (These prices must be given to the extent then known or reasonably ascertainable. If the prices are not known or reasonably ascertainable, a good faith estimate shall be given and a written statement of the actual charges shall be provided before the final bill is paid.); and

(C) The total cost of the goods and services selected.

4. Respondents violated 59 O.S. § 396.12c(8) when they violated OAC 235:10-7-2(4)(A) and (C) by failing to provide an accurate statement of goods to the decedent's family at the conclusion of the discussion of arrangements. Board rules OAC 235:10-7-2(4)(A) and (C) provide:

(4) Statement of goods and services selected. Failure to give an itemized written statement for retention to each person who arranges a funeral or other disposition of human remains, at the conclusion of the discussion of arrangements. The statement must list at least the following information:

(A) the funeral goods and funeral services selected by that person and the prices to be paid for each of them;

...

(C) the total cost of the goods and services.

5. Respondents violated 59 O.S. § 396.12c(8) when they violated OAC 235:10-7-2(13) by presenting the Second Contract to the Oklahoma Victims Compensation Fund that included additional items that the decedent's family did not contract for, as evidenced by the First Contract.

Board rule OAC 235:10-7-2(13) provides:

Charging. For service or merchandise not contracted for or failing to provide the services or merchandise contracted for or making substitution for services or merchandise contracted for without the authorization of the customer.

6. Respondents violated 59 O.S. § 396.12c(8) when they violated OAC 235:10-7-2(23) by creating the Second Contract, which the decedent's family never agreed to, for presentation to the Oklahoma Victims Compensation Fund. Board rule OAC 235:10-7-2(23) provides:

Forgery. Creating a false document, fraudulently altering a document, or writing a false signature upon any document.

7. Respondents violated 59 O.S. § 396.12c(8) when they violated OAC 235:10-7-2(26) by (1) creating the Second Contract, which misrepresented the goods and services the decedent's family agreed to in the First Contract; and (2) presenting the Second Contract to the Oklahoma Victims Compensation Fund for payment in full despite the family's refusal of such funds. Board rule OAC 235:10-7-2(26), in relevant part, provides:

(b) Integrity.

(i) A licensee shall be honest and trustworthy in the performance of all duties and work performed as a licensee and shall avoid misrepresentation and deceit in any fashion, whether by acts of commission or omission.

...

(iii) A licensee shall respect a consumer's right of personal choice and decisions with regard to making arrangements.

...

(d) Specific Rules of Conduct.

(i) A licensee shall provide to consumers and prospective consumers, where applicable, all statutorily required documentation, pricing information, and any other information concerning funerals, cremations, burials, pricing, merchandise, and services provided by licensee.

...

(vi) A licensee shall not engage in any activity that constitutes dishonesty, misrepresentation, or fraud while performing as a licensee.

8. As the Funeral Director in Charge at the times in question, NICK REYNOLDS is responsible for the legal and ethical operation of ADAMSCREST FUNERAL SERVICE and is accountable to the Board under 59 O.S. § 396.2(12), which provides:

"Funeral director in charge" means an individual licensed as a funeral director and embalmer designated by a funeral service establishment, commercial embalming

establishment, or crematory who is responsible for the legal and ethical operation of the establishment and is accountable to the Board.

9. Respondents ADAMSCREST FUNERAL SERVICE, and NICK REYNOLDS are subject to disciplinary action by the Board pursuant to 59 O.S. §§ 396.2a(9), 396.12c(5), 396.12c(8), 396.12c(14), 396.12d, and 396.12e. The violation of any Board rule or of a provision of the Funeral Services Licensing Act subjects to discipline the respective Respondents who violated it. 59 O.S. §§ 396.12(c)(5) (violation of statute) and (8) (violation of rule).

POTENTIAL PENALTIES THE BOARD MAY IMPOSE

1. The Board may impose a variety of penalties for violation of the Act or of Board Rules, including: (1) denial, revocation, suspension or nonrenewal of license; (2) imposition of administrative fines; (3) injunctive proceedings; and (4) other disciplinary action. 59 O.S. §§ 396.12c, 396.12d, and 396.12e.

2. Potential administrative penalties identified in 59 O.S. § 396.12e are:

A. Any person or entity who has been determined by the Oklahoma Funeral Board to have violated any provision of the Funeral Services Licensing Act or any rule or order issued pursuant thereto may be liable for an administrative penalty. The maximum administrative penalty shall not exceed Ten Thousand Dollars (\$10,000.00) for any related series of violations.

B. The Board shall be authorized, at its discretion, to take action as the nature of the violation requires. The Board shall have the authority to impose on the licensee, or certificate holder, as a condition of any adverse disciplinary action, the payment of costs expended by the Board in investigating and prosecuting the violation. The costs may include but are not limited to staff time, salary and travel expenses, witness fees and attorney fees, and shall be considered part of the order of the Board.

C. The amount of the penalty shall be assessed by the Board pursuant to the provisions of subsection A of this section, after notice and hearing. In determining the amount of the penalty, the Board shall include, but not be limited to, consideration of the nature, circumstances and gravity of the violation and, with respect to the person or entity found to have committed the violation, the degree of culpability, the effect on ability of the person or entity to continue to do business and any show of good faith in attempting to achieve compliance with the provisions of the Funeral Services Licensing Act. The Board shall make a report of any action

to any entity deemed appropriate for transmittal of the public record but shall in no cause be held liable for the content of the reported action or be made a party to any civil liability action taken as a result of the discipline imposed by the Board. All monies collected from the administrative penalties shall be deposited with the State Treasurer and by the State Treasurer placed in the "Fund of the Oklahoma Funeral Board ", created pursuant to Section 17 of this act.

D. Any license or certificate of apprenticeship holder may elect to surrender the license or certificate of apprenticeship of the person in lieu of said penalty but shall be forever barred from obtaining a reissuance of said license or certificate of apprenticeship.

NOTICE OF HEARING

In accordance with the jurisdiction granted this tribunal in 59 O.S. §§ 396.2a(7) & (9), 396.12c, 396.12d, and 396.12e a **joint proposed Consent Order** may be presented at the Board meeting on: **THURSDAY, DECEMBER 9, 2021, at 10:00 A.M..**

MEETING PLACE:

Videoconference at <https://oklahomafuneralboard.my.webex.com/meet/Funeralboard> We ask that only the Respondents in a complaint use the video camera function. If calling in by telephone please call 1-408-418-9388; Access Code 1260612143. If attending in person at the physical location: Office of Chief Medical Examiner OKC, 921 N.E. 23rd Street Conference Room 1st Floor Oklahoma City, OK 73105.

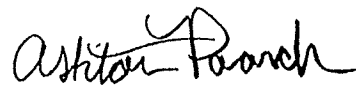
If no Consent Order is presented or approved by the Board on December 9, 2021, then an **EVIDENTARY HEARING** will be held at the same meeting on: **THURSDAY, DECEMBER 9, 2021, at 10:00 A.M.**

If it be the decision of the Board, after considering all of the evidence presented, that a Respondent is in violation of any of the above-referenced law, the Board may take whatever appropriate action that is provided for in its rules and statutes. The Respondents are advised that in accordance with the above-referenced legal authority that they have the right to appear personally, the right and obligation to submit a written response, and the right to appear through an attorney. In addition, the Respondents have the right to cross-examine witnesses and present evidence on their own behalf.

However, if a Respondent is not a person but is instead an entity such as a corporation or an LLC, although the corporation or LLC may by law enter into a consent order without an attorney, if an evidentiary hearing is required the Respondent corporation or LLC by law may only cross-examine witnesses, present evidence and/or defend itself at the hearing if it is represented by an attorney licensed in the State of Oklahoma. *See Redcorn, Jr., v. Knox*, 2014 OK CIV APP 109, 345 P.3d 392 (an agreed order is in the nature of a contract by which a corporation is bound even if not represented by an attorney); *Massongill v McDevitt*, 1989 OK CIV APP 82, 828 P.2d 438 (although a person may appear at a hearing and represent himself/herself without an attorney, a person is not able to appear on behalf of a corporation, regardless of the person's interest in the corporation or authorization by the corporation, unless the person is a licensed attorney). If a Respondent corporation or LLC chooses not to retain an attorney, although it may not under such circumstances present evidence on its own behalf, the Board might consider favorable (or unfavorable) evidence submitted by co-Respondents or the State when considering the violations alleged against the Respondent corporation or LLC. *See Enochs v. Martin*, 1997 OK 132, 954 P.2d 124 (even though a corporation had no attorney and was therefore in default, the court could in the absence of any objection at the hearing consider in the corporation's favor evidence offered in the case in joint defense by one of the other named parties).

Therefore, the Respondents are directed to appear at said hearing on said date and time. If a Respondent does not appear in person or through an attorney, the hearing will be held in its absence. **Note: OAC Section 235:10-7-2(21) requires that each Respondent must submit to the Board a response to this Complaint within ten (10) days of receipt of the Complaint.**

Respectfully submitted:

A handwritten signature in black ink that reads "Ashton Poarch". The signature is fluid and cursive, with the first name "Ashton" and last name "Poarch" clearly distinguishable.

Ashton Poarch, OBA # 34308
Assistant Attorney General
Office of the Oklahoma Attorney General
313 NE 21st Street
Oklahoma City, OK 73105
Ashton.Poarch@oag.ok.gov
Attorney for Oklahoma Funeral Board

CERTIFICATE OF SERVICE

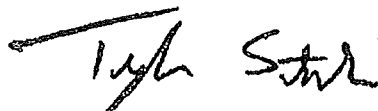
I hereby certify that on the 1st day of November, 2021, a true and correct copy of the foregoing *Complaint and Notice of Hearing* was served either mailing by Certified Mail or by handing to a process server for service in person, as follows:

BY CERTIFIED MAIL:

ADAMSCREST FUNERAL SERVICE
1916 South Sheridan Road
Tulsa, OK 74112

ADAMS-CREST FUNERAL HOME AND
CREMATION CENTER, LLC
1916 South Sheridan Road
Tulsa, OK 74112

NICK REYNOLDS
1916 South Sheridan Road
Tulsa, OK 74112



Tyler Stiles, MBA
Executive Director

**BEFORE THE OKLAHOMA FUNERAL BOARD
STATE OF OKLAHOMA**

**IN THE MATTER OF THE COMPLAINT
AGAINST:**

**LOCKSTONE FUNERAL HOME OF
THOMAS, INC.**

A Licensed Funeral Establishment,
Establishment License # 1277ES
106 South 10th Street
Thomas, OK 73669

owned by:

**LOCKSTONE FUNERAL HOME OF
THOMAS, INC.**

P.O. Box 663
Thomas, OK 73669

MARTIN D. LOCKSTONE

Licenses: 2070FD and 2218EM,

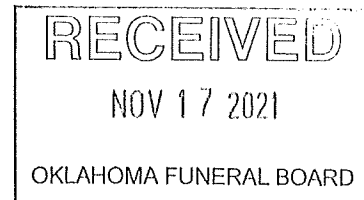
Address: 1911 Lark Street
Weatherford, OK 73096

A Licensed Funeral Director and Embalmer
and the Funeral Director in Charge at

**LOCKSTONE FUNERAL HOME OF
THOMAS, INC.,**

Respondents.

Complaint No. 22-11



COMPLAINT AND NOTICE OF HEARING

COMES NOW the State of Oklahoma, *ex rel.*, Oklahoma Funeral Board ("Board"), by and through Assistant Attorney General Ashton Poarch, and alleges that the Respondents, an Establishment and a Funeral Director in Charge, duly licensed by the Board have violated provisions of the State Funeral Services Licensing Act, 59 O.S. § 395.1 *et seq.* (the "Act"), and Rules of the Board, Oklahoma Administrative Code ("OAC") Section 235:10-1-1 *et seq.* (the "Rules"), in the manner set forth below:

FACTUAL ALLEGATIONS

1. Respondent LOCKSTONE FUNERAL HOME OF THOMAS, INC., (“Funeral Home” or “Establishment”), with establishment license number 1277ES, located at 106 South 10th Street, Thomas, OK 73669, was at all relevant times owned by LOCKSTONE FUNERAL HOME OF THOMAS, INC., P.O. Box 663, Thomas, OK 73669, and as such, LOCKSTONE FUNERAL HOME OF THOMAS, INC., is liable and responsible for any penalty imposed in these proceedings.
2. Respondent MARTIN D. LOCKSTONE is a licensed Funeral Director and Embalmer with license numbers 2070FD and 2218EM, and was the Funeral Director in Charge (“FDIC”) of Funeral Home at the time of the conduct giving rise to this complaint, and as the FDIC was responsible for the Establishment’s legal and ethical operation pursuant to 59 O.S. § 396.2(12).
3. On or about September 27, 2021, Board staff conducted an inspection of the Funeral Home and determined that the Body Intake Log was deficient: not all bodies received at the Funeral Home were listed in the Log; there were no dates or times reflecting when the bodies were received; the dates and times of embalming were not listed in the Log; the embalmer did not sign the Log; the name, signature and embalmer license number was not in the Log; and the name, signature and apprentice license number was not in the Log. Further, no licenses issued by the Board were conspicuously displayed in the Funeral Home. The Establishment was provided with a copy of the inspection report.
4. On September 28, 2021, Board staff filed a complaint with the Oklahoma Funeral Board, and notice was subsequently provided to the Respondents by letter dated October 4, 2021. On October 12, 2021, the Board received Respondents’ response to Complaint 22-11, stating as follows:

- a. Respondents apologized to the Board for the deficiencies noted in the inspection, stating that Respondents ordered duplicate licenses to be displayed at the Funeral Home. Further, Respondents included an updated and complete Body Intake Log.
5. This matter was presented to the Board on November 10, 2021, for a probable cause determination, and the Board found probable cause to file a formal complaint against the Respondents.
6. The prosecution has sufficient evidence which, if presented to the Board at an evidentiary hearing, would constitute clear and convincing evidence of the violations alleged.

ALLEGED CONCLUSIONS OF LAW

1. The Board has jurisdiction over Respondents pursuant to 59 O.S. § 396.2a(9) and (11).
2. The statutory list of relevant violations for which the Board may suspend or revoke a license is found at 59 O.S. § 396.12c, which provides:

After notice and hearing pursuant to Article II of the Administrative Procedures Act, the Oklahoma Funeral Board may refuse to issue or renew, or may revoke or suspend, any license or registration for any one or combination of the following:

5. Violation of any of the provisions of the Funeral Services Licensing Act or any violation of Sections 201 through 231 of Title 8 of the Oklahoma Statutes;
8. Violation of any rules of the Board in administering the purposes of the Funeral Services Licensing Act;
3. Respondents violated 59 O.S. § 396.12c(8) when they violated OAC 235:10-3-2(5) by failing to have a complete and up-to-date Body Intake Log. Board rule OAC 235:10-3-2(5)(vii) added provides:

(vii) Body Intake Log. Each funeral establishment or commercial embalming service shall maintain in the preparation room of that establishment, or within a reasonable proximity of the preparation room, a log book. The log book shall list the name of each human remains received at this location including the date and time the remains were received, the care or preparation of the remains (i.e., bathe,

disinfect, refrigerate, or embalm), the date and time that the embalming occurred, the disposition of the remains, and the name, signature, and license number of the embalmer(s) and apprentice(s). If the remains were prepared at another location, that location shall be listed in lieu of the name and signature of the embalmer(s) and apprentice(s). The log book must be available at all times for inspection by the Board.

4. Respondents violated 59 O.S. § 396.12c(8) when they violated OAC 235:10-3-2(10) by failing to list the FDIC on the Body Intake Log. Board rule OAC 235:10-3-2(10) provides:

(10) Funeral Director in Charge. The Funeral Director in Charge shall be listed on the original establishment application and any subsequent establishment renewal applications, and on the body intake log.

5. Respondents violated 59 O.S. § 396.12c(5) when they violated 59 O.S. § 396.6(C) by failing to conspicuously display their licenses issued by the Board. Title 59, Section 396.6 provides:

(C) The holder of any license or certificate issued pursuant to the Funeral Services Licensing Act, or any rules promulgated pursuant thereto, shall have the license or certificate displayed conspicuously in the place of business of the holder.

6. As the Funeral Director in Charge at the times in question, MARTIN D. LOCKSTONE is responsible for the legal and ethical operation of LOCKSTONE FUNERAL HOME OF THOMAS, INC., and is accountable to the Board under 59 O.S. § 396.2(12).

59 O.S. § 396.12(C). “Every funeral establishment, commercial embalming establishment, and crematory shall be operated by a funeral director in charge.”

59 O.S. § 396.2(12). The “‘Funeral director in charge’ means an individual licensed as a funeral director and embalmer designated by a funeral service establishment, commercial embalming establishment, or crematory who is responsible for the legal and ethical operation of the establishment and is accountable to the Board.”

7. Respondents LOCKSTONE FUNERAL HOME OF THOMAS, INC. and MARTIN D. LOCKSTONE are subject to disciplinary action by the Board pursuant to 59 O.S. §§ 396.2a(9), 396.12c(5), 396.12c(8), 396.12d and 396.12e. The violation of any Board rule or of a provision

of the Funeral Services Licensing Act subjects the Respondents to discipline. 59 O.S. §§ 396.12c(5) (violation of statute) and (8) (violation of rule).

POTENTIAL PENALTIES THE BOARD MAY IMPOSE

1. The Board may impose a variety of penalties for violation of the Act or of Board Rules, including: (1) denial, revocation, suspension or nonrenewal of license; (2) imposition of administrative fines; (3) injunctive proceedings; and (4) other disciplinary action. 59 O.S. §§ 396.12c, 396.12d and 396.12e.

2. Potential administrative penalties identified in 59 O.S. § 396.12e are:

A. Any person or entity who has been determined by the Oklahoma Funeral Board to have violated any provision of the Funeral Services Licensing Act or any rule or order issued pursuant thereto may be liable for an administrative penalty. The maximum administrative penalty shall not exceed Ten Thousand Dollars (\$10,000.00) for any related series of violations.

B. The Board shall be authorized, at its discretion, to take action as the nature of the violation requires. The Board shall have the authority to impose on the licensee, or certificate holder, as a condition of any adverse disciplinary action, the payment of costs expended by the Board in investigating and prosecuting the violation. The costs may include but are not limited to staff time, salary and travel expenses, witness fees and attorney fees, and shall be considered part of the order of the Board.

C. The amount of the penalty shall be assessed by the Board pursuant to the provisions of subsection A of this section, after notice and hearing. In determining the amount of the penalty, the Board shall include, but not be limited to, consideration of the nature, circumstances and gravity of the violation and, with respect to the person or entity found to have committed the violation, the degree of culpability, the effect on ability of the person or entity to continue to do business and any show of good faith in attempting to achieve compliance with the provisions of the Funeral Services Licensing Act. The Board shall make a report of any action to any entity deemed appropriate for transmittal of the public record but shall in no cause be held liable for the content of the reported action or be made a party to any civil liability action taken as a result of the discipline imposed by the Board. All monies collected from the administrative penalties shall be deposited with the State Treasurer and by the State Treasurer placed in the "Fund of the Oklahoma Funeral Board ", created pursuant to Section 17 of this act.

D. Any license or certificate of apprenticeship holder may elect to surrender the license or certificate of apprenticeship of the person in lieu of said penalty but shall

be forever barred from obtaining a reissuance of said license or certificate of apprenticeship.

NOTICE OF HEARING

In accordance with the jurisdiction granted this tribunal in 59 O.S. §§ 396.2a(7) & (9), 396.12c, 396.12d and 396.12e a **joint proposed Consent Order** may be presented at the Board meeting on: **THURSDAY, DECEMBER 9, 2021, at 10:00 A.M.**

MEETING PLACE:

Videoconference at <https://oklahomafuneralboard.my.webex.com/meet/Funeralboard> We ask that only the Respondents in a complaint use the video camera function. If calling in by telephone please call 1-408-418-9388; Access Code 1260612143. If attending in person at the physical location: Office of Chief Medical Examiner OKC, 921 N.E. 23rd Street Conference Room 1st Floor Oklahoma City, OK 73105.

If no Consent Order is presented or approved by the Board on December 9, 2021, then an **EVIDENTARY HEARING** will be held at the same meeting on: **THURSDAY, DECEMBER 9, 2021, at 10:00 A.M.**

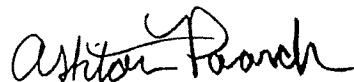
If it be the decision of the Board, after considering all of the evidence presented, that a Respondent is in violation of any of the above-referenced law, the Board may take whatever appropriate action that is provided for in its rules and statutes. The Respondents are advised that in accordance with the above-referenced legal authority that they have the right to appear personally, the right and obligation to submit a written response, and the right to appear through an attorney. In addition, the Respondents have the right to cross-examine witnesses and present evidence on their own behalf.

However, if a Respondent is not a person but is instead an entity such as a corporation or an LLC, although the corporation or LLC may by law enter into a consent order without an attorney, if an evidentiary hearing is required the Respondent corporation or LLC by law may only cross-examine witnesses, present evidence and/or defend itself at the hearing if it is represented by an attorney licensed in the State of Oklahoma. See *Redcorn, Jr., v. Knox*,

2014 OK CIV APP 109, 345 P.3d 392 (an agreed order is in the nature of a contract by which a corporation is bound even if not represented by an attorney); *Massongill v McDevitt*, 1989 OK CIV APP 82, 828 P.2d 438 (although a person may appear at a hearing and represent himself/herself without an attorney, a person is not able to appear on behalf of a corporation, regardless of the person's interest in the corporation or authorization by the corporation, unless the person is a licensed attorney). If a Respondent corporation or LLC chooses not to retain an attorney, although it may not under such circumstances present evidence on its own behalf, the Board might consider evidence submitted by co-Respondents or the State when considering the violations alleged against the Respondent corporation or LLC. *See Enochs v. Martin*, 1997 OK 132, 954 P.2d 124 (even though a corporation had no attorney and was therefore in default, the court could in the absence of any objection at the hearing consider in the corporation's favor evidence offered in the case in joint defense by one of the other named parties).

Therefore, the Respondents are directed to appear at said hearing on said date and time. If a Respondent does not appear in person or through an attorney, the hearing will be held in its absence. **Note: OAC Section 235:10-7-2(21) requires that each Respondent must submit to the Board a response to this Complaint within ten (10) days of receipt of the Complaint.**

Respectfully submitted:



Ashton Poarch, OBA # 34308
Assistant Attorney General
Office of the Oklahoma Attorney General
313 NE 21st Street
Oklahoma City, OK 73105
Ashton.Poarch@oag.ok.gov
Attorney for Oklahoma Funeral Board

CERTIFICATE OF SERVICE

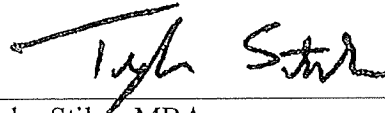
I hereby certify that on the 17th day of November, 2021, a true and correct copy of the foregoing *Complaint and Notice of Hearing* was served either mailing by Certified Mail or by handing to a process server for service in person, as follows:

BY CERTIFIED MAIL:

LOCKSTONE FUNERAL HOME OF
THOMAS, INC.
106 South 10th Street
Thomas, OK 73669

LOCKSTONE FUNERAL HOME OF
THOMAS, INC.
P.O. Box 663
Thomas, OK 73669

MARTIN D. LOCKSTONE
1911 Lark Street
Weatherford, OK 73096



Tyler Stiles, MBA
Executive Director

§59-396.3. Qualifications and examination of funeral directors and embalmers -
Approved schools

B. 1. Except as provided in subsection C of this section, the minimum requirements for a license to practice funeral directing or embalming, or both, are as follows: The minimum requirements for a license to practice funeral directing or embalming, or both, are as follows:

An applicant for a license to practice funeral directing or embalming shall be at least twenty (20) years of age, a legal resident of this state, a citizen or permanent resident of the United States. In addition, an applicant ~~shall have at least sixty (60) semester hours of study earned, measured in quarter or clock hours, from a regionally accredited college or university,~~ shall be a graduate of a program of mortuary science accredited by the American Board of Funeral Service Education, and have served one (1) year as a registered apprentice. The applicant may serve as a registered apprentice prior to enrollment in an approved school of mortuary science, or subsequent to graduation from the school and pass the International Conference of Funeral Service Examining Board National Board Science Examination and/or Arts Examination with a 75 or higher on each exam.

C. 1. If a person chooses not to meet the qualifications in subsection B of this section for a funeral director, the person may alternatively qualify for a license to practice funeral directing, but not embalming, upon meeting the eligibility requirements of this subsection as follows: An applicant for a license to practice funeral directing shall be at least twenty (20) years of age, a legal resident of this state, a citizen or permanent resident of the United States. An applicant is required to complete a funeral director course of study approved by the Oklahoma Funeral Board and that is administered by program of mortuary science accredited by the American Board of Funeral Service Education (ABFSE). The funeral director course of Study shall include at least thirty (30) semester hours or Equivalent closely following the ABFSE curriculum standard, limited to only: Business Management, Cremation, Social Sciences/Humanities, Legal, Ethical, Regulatory, plus essential elements of embalming, restorative art, general concerns when dealing with human remains, a practicum experience and preparation for the required board exams. In addition to the funeral director course of study the applicant is required to complete ~~at least sixty (60) additional semester hours of study earned, measured in quarter or clock hours, from a regionally accredited college or university~~ and must complete a twelve-month minimum term as a registered apprentice with employment at a licensed establishment and must have assisted with twenty-five arrangement conferences and assisted with twenty five separate funeral or memorial services under the supervision of a licensed funeral director in this state. The applicant

may serve as a registered apprentice prior to enrollment in an approved school of mortuary science, concurrently while in mortuary school, or subsequent to completion of the funeral director course of study.

§59-396.22. Meetings of Board.

Meetings of the Board shall be held at least twice a year at such places as may be designated by the Board. Four ~~Three~~ members of the Board shall constitute a quorum.

END

OAC 235:10-1-4. Requests for rule interpretation or promulgation

(1) Requests for rule interpretation

- a. Any person who may be affected by the existence of application of any of the rules of this chapter may request in writing an interpretation of ruling regarding the application of such rule to the facts furnished with the inquiry. Any such request shall state fully the facts concerning which the rule may apply, and the particular rule about which the question exists. The request or inquiry will be added to the agency for the next scheduled Board meeting and may if necessary be continued for further consideration to additional business meetings. The Board's interpretation of the rule will be furnished in writing to the person making the request, within a reasonable time thereafter.
- b. Requests for interpretation of rules shall not be accepted or considered if the request involves facts and/or circumstances whereupon a complaint has been filed, but not yet disposed.

(2) Requests for rule adoption, amendment, or repeal

- a. Any interested person may request the Board to adopt, amend or repeal a rule in this chapter. The request shall be made in writing and shall include an explanation to support the request. A request shall also include:
 - i. the name, address and telephone number of the person making the request;
 - ii. the name, address and telephone number of the agency or organization the person represents, if any;
 - iii. the reason for requesting the adoption, amendment, or repeal of a rule;
 - iv. the number used to identify the rule if the request is to amend or repeal an existing rule; and
 - v. the proposed language if the request is to amend an existing rule or adopt a new rule.
- b. It is the Board's policy to respond to such requests within 30 calendar days.